

DOCKET FILE COPY ORIGINAL

GARDNER, CARTON & DOUGLAS

1301 K STREET, N.W.

SUITE 900, EAST TOWER

WRITER'S DIRECT DIAL NUMBER

M. SCOTT JOHNSON

202-408-7122

WASHINGTON, D.C. 20005

(202) 408-7100

FAX: (202) 289-1504

INTERNET: gcdlawdc@gcd.com

CHICAGO, ILLINOIS

June 29, 1998

RECEIVED

JUN 29 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Hand Delivery**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

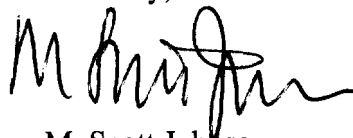
Re: MM Docket No. 98-63  
RM-9209

Dear Ms. Salas:

Enclosed, on behalf Robert S. Sullins, licensee of radio station KMAD-FM, Madill, Oklahoma, are an original and four copies of his Comments and Counterproposal in the above referenced matter.

Should there be any questions in connection with this filing, please contact the undersigned at the number given above or Jocelyn R. Roy at 202-408-7139.

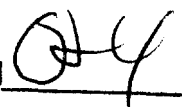
Sincerely,



M. Scott Johnson

Enclosure

No. of Copies rec'd  
List A B C D E



Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED

JUN 29 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.202(b)  
(Table of Allotments)  
FM Broadcast Stations

Pottsboro, Texas, Durant and  
Madill, Oklahoma

)  
)  
)  
)  
)  
)  
)  
)

MM Docket No. 98-63  
RM-9209

To: Chief, Mass Media Bureau

**COMMENTS & COUNTERPROPOSAL**

Respectfully submitted,  
**Robert S. Sullins**

M. Scott Johnson, Esquire  
Jocelyn R. Roy, Esquire  
His Attorneys

Gardner, Carton & Douglas  
1301 K Street, N.W.  
Suite 900, East Tower  
Washington, DC 20005  
(202) 408-7100

Date: June 29, 1998

## TABLE OF CONTENTS

<b>SUMMARY .....</b>	<b>ii</b>
<b>I. BACKGROUND .....</b>	<b>2</b>
<b>II. DISCUSSION .....</b>	<b>3</b>
<b>A. SULLINS' COUNTERPROPOSALS SERVE THE PUBLIC INTEREST .....</b>	<b>3</b>
<b>B. GAIN/LOSS AREAS .....</b>	<b>4</b>
<b>C. THE WHITESBORO PROPOSAL IS ENTITLED TO A FIRST LOCAL         SERVICE PREFERENCE.....</b>	<b>5</b>
1. <i>Technical Service To Whitesboro And Sherman/Denison. ....</i>	<i>5</i>
2. <i>Population and Location Considerations .....</i>	<i>6</i>
3. <i>Interdependence .....</i>	<i>7</i>
4. <i>Workplace Employment In Whitesboro.....</i>	<i>8</i>
5. <i>Media Outlets.....</i>	<i>8</i>
6. <i>Perception of Community Leaders &amp; Residents .....</i>	<i>9</i>
7. <i>Whitesboro's Local Government .....</i>	<i>9</i>
8. <i>Whitesboro's Telephone Listing and Zip Code.....</i>	<i>10</i>
9. <i>Commercial Establishments &amp; Health Facilities .....</i>	<i>10</i>
10. <i>Advertising Market.....</i>	<i>10</i>
11. <i>Municipal Services.....</i>	<i>11</i>
<b>D. THE ALLOCATION AT WHITESBORO SATISFIES THE ALLOTMENT         PRIORITIES AND SHOULD BE PREFERRED OVER POTTSBORO .....</b>	<b>11</b>
<b>III. CONCLUSION .....</b>	<b>13</b>

## SUMMARY

Robert S. Sullins, licensee of KMAD-FM, Madill, Oklahoma, respectfully submits his Comments and Counterproposal to the May 8, 1998 Notice of Proposed Rule Making issued by the Federal Communications Commission, in response to the Petition for Rule Making filed by Grayson Broadcasting Company requesting an amendment to the Table of Allotments, with corresponding channel substitutions, to provide first local service to Pottsboro, Texas on Channel 273C3.

Sullins proposes, instead, that the Commission adopt his counterproposal to allocate Channel 273C2 to Whitesboro, Texas to provide first local service, to change KMAD-FM's city of license to reflect the new allocation and delete Channel 272A at Madill, Oklahoma. In support, Sullins demonstrates Madill will continue to have a local transmission service and that the public interest will be better served by the allotment of a channel at Whitesboro than by an allotment at Pottsboro. The counterproposal demonstrates that Whitesboro is a dynamic and thriving independent community entitled to a first local service. Whitesboro has its own significant population of workforce as well as many social, business, and governmental activities. Moreover, the Sullins counterproposal will result in a substantially greater net gain in the areas and populations served than the Pottsboro proposal. Based upon all relevant criteria, an allocation at Whitesboro is preferred over Pottsboro.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Amendment of Section 73.202(b)</b>	)	<b>MM Docket No. 98-63</b>
<b>(Table of Allotments)</b>	)	<b>RM-9209</b>
<b>FM Broadcast Stations</b>	)	
	)	
<b>Pottsboro, Texas, Durant and</b>	)	
<b>Madill, Oklahoma</b>	)	
 <b>To: Chief, Mass Media Bureau</b>		

**COMMENTS & COUNTERPROPOSAL**

Robert S. Sullins, licensee of radio station KMAD-FM, Madill, Oklahoma,<sup>1/</sup> by his attorneys and pursuant to Section 1.420 (i) of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. § 1.420 (i), hereby files these comments and counterproposal in response to the May 8, 1998, Notice of Proposed Rule Making ("NPRM") issued by the Commission in response to the Petition for Rule Making ("Petition") filed by Grayson Broadcasting Company ("Petitioner") in the above-referenced proceeding and the Commission's Order to Show Cause why KMAD-FM's license should not be modified. The NPRM proposes the amendment to the Table of Allotments requesting that the Commission amend Section 73.202 (b) of its Rules, 47 C.F.R. § 73.202 (b), to: (a) allot Channel 273C3 to Pottsboro, Texas; (b) substitute Channel 292A for Channel 296A for Station KLBC at

---

<sup>1/</sup> Assignments of licenses from Steve Landtroop, Inc. to Robert S. Sullins for KMAD-FM and KMAD-AM were granted on March 11, 1998 and March 20, 1998, respectively (FCC File Nos. BALH-980122GF & BAL-980122GK) and subsequently consummated.

Durant, Oklahoma (and modify Station KLBC's license accordingly); and (c) substitute Channel 296A for Channel 272A for Station KMAD-FM at Madill, Oklahoma or alternatively substitute Channel 296C3 for Channel 272A at Madill (with corresponding license modifications).

## **I. BACKGROUND**

Sullins is the licensee of Station KMAD-FM, operating on channel 272A, Madill, Oklahoma. In 1996, Channel 272A was deleted, and Channel 273A allocated in MM Docket No. 95-126 for use by Station KMAD-FM.<sup>2/</sup> Sullins currently has a "one-step upgrade" application pending to modify the current KMAD-FM license (FCC File No. BLH-850523KA) to operate as a class C2 station on Channel 273.<sup>3/</sup> The modification application is mutually exclusive with the allocation of Channel 273C at Pottsboro proposed in this proceeding. Sullins is also the licensee of KMAD (AM), licensed to Madill, Oklahoma.<sup>4/</sup>

In this counterproposal, Sullins proposes the allocation of Channel 273C2 to Whitesboro, a change in KMAD-FM's city of license from Madill to Whitesboro to reflect the new allocation, and deletion of Channel 272A at Madill. In order to accomplish the foregoing, Sullins proposes the substitution of Channel 255A for Channel 274A at Roxton, Texas and the substitution of Channel 274A for 243A at Soper, Oklahoma. Sullins notes that the substitutions set forth reflect only changes to proposed allotments and, if granted, would represent no interruption of present service nor require changes to existing stations.

Should the Commission grant the petition for allotment of Channel 273C to Whitesboro, Sullins will file a modification application to specify Whitesboro as KMAD-FM's new

---

<sup>2/</sup> 11 FCC Rcd 5316 (1996).

<sup>3/</sup> The coordinates proposed by Sullins are N33°-49'-29," W96°-46'-44".

<sup>4/</sup> KMAD (AM) operates on 1550 kHz with 3,000 watts daytime.

community of license, and upon approval of the application, relocate its transmitter site, and construct and operate KMAD-FM at Whitesboro with the facilities reflected in the Engineering Report attached hereto.

## **II. DISCUSSION**

### **A. SULLINS' COUNTERPROPOSALS SERVE THE PUBLIC INTEREST**

Two factors must be demonstrated in order to change a station's community of license: (1) the channel change must be mutually exclusive; and (2) the modification must not deprive a community of its only local transmission service.<sup>5/</sup> Sullins' proposals are consistent with these factors. In addition, as demonstrated below, Whitesboro is a wholly independent community, separate from the Sherman/Denison Urbanized Area, and is deserving of a first local transmission service.

When a broadcaster seeks to change a licensed station from a rural community to a community that is outside but proximate to an Urbanized Area, the Commission has determined that, if the station would place a 70 dBu signal over 50% or more of the Urbanized Area, a showing is required to establish the independence and separate identity of the community from the Urbanized Area. FM Table of Allotments (Headland, Alabama, and Chattahoochee, FL., 10 FCC Rcd 10352 (1995).<sup>6/</sup> In evaluating the independence of a community, the Commission looks to the following factors: (1) population coverage to the proposed suburban community and to the Urbanized Area; (2) size of the suburban community versus size of the Urbanized Area, its

---

<sup>5/</sup> See *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), clarified 5 FCC Rcd 7094 (1990). ("New Community of License")

<sup>6/</sup> See also *Faye & Richard Tuck*, 3 FCC Rcd 5374 (1988) ("Tuck").

location and proximity to that area; and (3) the interdependence of the suburban community and the Urbanized Area.

## **B. GAIN/LOSS AREAS**

With respect to the first and second prong of the Commission's required showing under its policy set forth in New Community of License, *supra*, as the Engineering Report prepared by Reynolds Technical Associates attached hereto, reflects, a change in the city of license for KMAD-FM will not deprive Madill of its only local transmission service. KMAD (AM), licensed to Madill, will continue to be licensed and operated in that community. Additionally, consistent with the Commission's criteria, the Sullins proposal is mutually exclusive with the current KMAD-FM facilities. Moreover, the proposed change to KMAD-FM's facilities will result in a gain area within the station's 60 dBu contour of 7,222 square kilometers (assuming maximum C2 facilities) while the area lost will be only 37 square kilometers. The Engineering Study reports the gain area includes 188,682 persons while the loss area includes only a population of only 159. Therefore, the proposed change will result in a substantial net gain in area (7,185 square kilometers) and population (188,523 persons) within the 60 dBu service area. This favorable conclusion and the fact that the entire loss area is well-served by at least five primary aural services, demonstrates that Sullins' proposal will serve the public interest.<sup>7/</sup>

---

<sup>7/</sup> See *FM Table of Allotments* (Douglas, GA et al.), 10 FCC Rcd 7706, 7707 (1995) (where loss area received service from at least five full-time reception services, the Commission found the area to be "well served").



**C. THE WHITEBORO PROPOSAL IS ENTITLED TO A FIRST LOCAL SERVICE PREFERENCE.**

As noted above, in Headland the Commission requires additional information be provided where a proposed relocation is to a community located near an Urbanized Area if the 70 dBu signal would encompass 50% or more of the Urbanized Area. The additional facts and circumstances enable the Commission to determine whether the proposal for the community should be viewed as one for first local service or whether the community involved should be credited with the local transmission services of the larger Urbanized Area. In establishing the requirement the Commission stated that the size and proximity of the community to the central city, and signal population are pertinent but less significant than interdependence. The smaller community's interdependence or lack thereof on the larger community is the most critical determination in this process. Headland supra at 10355.

There can be no question that the proposal for Whitesboro is entitled to a first local service preference. The preponderance of evidence establishes that Whitesboro, located some 16 miles apart from Sherman-Denison and outside the Urbanized Area, is neither an appendage of nor a suburb of Sherman-Denison. It is a wholly independent community.

**1. Technical Service To Whitesboro And Sherman/Denison.**

The Engineering Report attached hereto reflects a 70 dBu signal would be placed over all of Whitesboro and over most, but not all, of the Sherman-Denison Urbanized Area. The Report also reflects that the chosen site reference coordinates are within a limited "clear" site area and reasonably chosen in relation to Whitesboro. The location also permits operation with full C-2 facilities. This result is consistent with the requirements of Section 307(b) that licenses be distributed on an efficient as well as fair and equitable basis. Commission policy discourages

inefficient proposals. Accordingly, the proposed allotment is properly one which would serve Whitesboro.

## **2. Population and Location Considerations**

Under Headland, as a second element, the Commission will “examine the size of the suburban community relative to the adjacent city, its proximity to the city, and whether the suburban community is within or outside but proximate to the Urbanized Area of the central city.” Headland supra. at 10355.

Whitesboro is outside the Sherman-Denison Urbanized Area, being located roughly 16 miles due west, through largely rural farmland. Its population is 3,209 (see p. 11 infra.) and growing. The population of Sherman is 31,601 and that of Denison 21,505.<sup>8/</sup> The communities of Sherman and Denison are approximately 6 miles apart and lie in a north-south line along Highway 75. The U.S. Census has combined the two into one Urbanized Area<sup>9/</sup> with a population of 55,522. Whitesboro is located 16 miles due west of the Sherman portion of the Urbanized Area and the Highway 75 corridor, just over 20 miles from the Denison city limits. Whitesboro’s westerly location places it on the western edge of Grayson County and equidistant between Sherman and Gainesville (population 14,256) in Cooke County.

Under any analysis, Whitesboro is a separate community well outside the Urbanized Area, blessed with its own sizable population, and as demonstrated throughout this

---

<sup>8/</sup> 1990 population (U.S. Census).

<sup>9/</sup> The Sherman-Denison Urbanized Area also includes the City of Howe.

counterproposal, is wholly independent. Clearly, it is no appendage or bedroom community of the Urbanized Area.

### 3. Interdependence

In assessing interdependence pursuant to the third prong of the Commission's analysis under Headland, the Commission considers the following factors: (1) the extent to which community residents work in the larger metropolitan area, rather than the specified community; (2) whether the smaller community has its own newspaper or other media that cover the community's local needs and interests; (3) whether community leaders and residents perceive the specified community as being an integral party of, or separate from, the larger metropolitan area; (4) whether the specified community has its own local government and elected officials; (5) whether the smaller community has its own telephone book provided by the local telephone company or zip code; (6) whether the community has its own commercial establishments, health facilities, and transportation systems; (7) the extent to which the specified community and the central city are part of the same advertising markets; and (8) the extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools and libraries.<sup>10/</sup>

In support of the independence of Whitesboro, Sullins notes that Whitesboro is the third largest city in Grayson County, located on its western boundary. Whitesboro is not part of the Sherman/Denison Urbanized Area designated by the U.S. Census Bureau. Further, among other

---

<sup>10/</sup>

It is not required that all eight factors to be demonstrated. Lack of evidence under one factor should be resolved in favor of independence. See *FM Table of Allotments* (Headland, Alabama and Chatahoochee, Florida) 10 FCC Rcd 10352, 10355 (1995).

attributes, Whitesboro has its own employers, zip code, local newspaper, local government, police, fire, water and sewage services.

#### **4. Workplace Employment In Whitesboro**

Employers located within Whitesboro employ 1,276 people over the age of 16.<sup>11/</sup> Examples of major Whitesboro area employers include Bank of America, Boaz Heating and Air, Cedar Mill Marina, TCI Cablevision and Whitesboro Nursing Home. Paragraph 6 below also details a plethora of commercial businesses (both retail service related) all of which provide employment. This strong employment base attracts and provides employment for residents of Whitesboro as well as non-residents, making Whitesboro an attractive place of employment. In fact, Whitesboro is the business hub for Gordonville, Sadler, Collinsville, Southmayd and other smaller towns in the area.<sup>12/</sup>

#### **5. Media Outlets**

Whitesboro has its own newspaper, the Whitesboro News Record which covers local needs, and interests. The News Record includes news of particular interest to Whitesboro, as well as listing of events, social information, sports, advertising and other Whitesboro information.

---

<sup>11/</sup> Employers located in Pottsboro employ only 572 persons. Source 1990 U.S. Census Data. Whitesboro employs more people than Madill (1,157 persons) as well.

<sup>12/</sup> Source Whitesboro Area Chamber of Commerce.

## **6. Perception of Community Leaders & Residents**

The community leaders and residents of Whitesboro consider Whitesboro to be a separate entity from the Sherman/Denison Urbanized Area.<sup>13/</sup> This fact is illustrated by the number of active community and civic organizations comprised of the residents of Whitesboro, as set forth in the Whitesboro profiles attached hereto. These organizations include, for example, the Rotary Club, Kiwanis Club and Lions Club and several federated women's clubs. Whitesboro is also home to a number of recreational parks and golf courses, providing a wealth of local recreational activities to Whitesboro residents. (See attached exhibits.) It also has varied businesses and employees as detailed herein. Additionally, Whitesboro has its own independent school district which includes Whitesboro Elementary, Whitesboro Middle School and Whitesboro High School, as well as a Christian Academy.<sup>14/</sup> Whitesboro also has two private pre-schools. Also, the Declaration of Robert S. Sullins demonstrates that in conversations with Whitesboro community leaders and residents, he has found Whitesboro clearly identifies and considers itself a community separate from the Urbanized Area.

## **7. Whitesboro's Local Government**

The Whitesboro local government includes a City Council, Mayor, and City Administrator. The city government provides a multitude of services and employs approximately 100 persons to perform its responsibilities and accomplish its tasks. The city government also includes a Parks and Recreation Department with a director and staff.

---

<sup>13/</sup> See attached letters of Alfred Miller, Mayor of Whitesboro, and Janis Crawley, Executive Vice President, Whitesboro Area Chamber of Commerce.

<sup>14/</sup> Source American Business Directory, American Business Information, Inc.

Whitesboro, likewise, has its own police department. Fire protection services are provided by the Whitesboro Fire Department, an active volunteer fire department of 28 individuals.

#### **8. Whitesboro's Telephone Listing and Zip Code**

The local telephone listing are published by GTE Southwest Incorporated and include the major cities it serves in Grayson County. Whitesboro has its own section within the directory. Whitesboro has its own zip code and a U.S. Postal Office and postal facilities serving the city.

#### **9. Commercial Establishments & Health Facilities**

The attached materials illustrate the plethora of commercial retail businesses and service providers that are located in Whitesboro. For example, Whitesboro has three banks, three medical clinics, two dental clinics and eleven churches.<sup>15/</sup> Whitesboro is also the shopping center of the West Grayson County area and is home to a variety of retail stores. There are automobile dealerships, pharmacies, accountants, lawyers, veterinary clinics, restaurants, and a multitude of retail outlets also located in Whitesboro. (See attached exhibits.)

#### **10. Advertising Market**

As noted above and reflected in the attached materials, Whitesboro has a thriving business community which has unique local needs that benefit from local advertising of its businesses within the local market of Whitesboro, totally apart from the Urbanized Area. The advertising in the local newspaper also reflects this reality. Likewise, the "classified listings" in the Whitesboro Chamber of Commerce business referral guide (copy attached) reflect an

---

<sup>15/</sup>

Id.

overwhelming number of Whitesboro businesses. There are approximately 90 listings total. A few are from surrounding towns, while only two reference Sherman locations. There are none from Denison.

## **11. Municipal Services**

As noted in detail above, Whitesboro has its own police, fire departments, and parks/recreation departments as well as water and sewage services. The City employs roughly 100 individuals.

### **D. THE ALLOCATION AT WHITESBORO SATISFIES THE ALLOTMENT PRIORITIES AND SHOULD BE PREFERRED OVER POTTSBORO**

Approval of Sullins' counterproposal is consistent with the Commission's criteria for the assignment of FM channels. The FM priorities are: (1) first aural service; (2) second aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3).<sup>16/</sup> In proceedings to change the community of license of an FM station, the Commission considers the availability of both FM and AM services in the relevant communities.<sup>17/</sup> As noted above, KMAD (AM) will remain licensed, and will provide service to, Madill.<sup>18/</sup> Neither Potttsboro, nor Whitesboro are currently licensed a radio service; however, the public interest would be better served by the allocation of a first local service to Whitesboro.

The public interest factors support the allocation of FM service at Whitesboro over Potttsboro. The Commission's comparison of public interest matters takes into account such

---

<sup>16/</sup> See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 92 (1982).

<sup>17/</sup> See *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 5 FCC Rcd 7094, 7097 (1990).

<sup>18/</sup> Moreover KMAD-FM will continue to provide regional service to Madill while providing a first transmission service to Whitesboro.

factors as the relative size of the proposed communities and their growth rates.<sup>19/</sup> As illustrated by the most recent census information, Whitesboro has a significantly larger population than Pottsboro and is growing at a rate that is faster than the rate of growth for either Pottsboro or Madill. More particularly, Whitesboro had a 1990 population of 3,209.<sup>20/</sup> Since 1990, the population of Whitesboro has steadily increased. U.S. Department of Commerce estimates indicate a 4.3% growth increase from 1990 to a 1994 population of 3,348. In contrast, the population of Pottsboro increased by 3.9%.<sup>21/</sup>

Whitesboro also has more business establishments than Pottsboro. Petitioner's petition notes that Pottsboro is served by over 50 business organizations. However, as the attached materials illustrate, Whitesboro is home to over 150 businesses.<sup>22/</sup> The attributes of Whitesboro set forth in this counterproposal reflect a significant community which by any comparison overshadows the smaller Pottsboro community. Additionally, as the attached Engineering Report illustrates, the number of persons served within the proposed Sullins Whitesboro 60 dBu contour is 204,757. In contrast, the number of persons served in the proposed Pottsboro allocation is only 133,565. Sullins' proposal, therefore, would best serve the public interest resulting in service to more persons (71,192) than the Pottsboro proposal.<sup>23/</sup>

---

<sup>19/</sup> *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 92, fn. 8 (1982).

<sup>20/</sup> The 1990 population for Pottsboro was 1177. The 1990 population of Madill was 3069.

<sup>21/</sup> The population of Madill only increased by 3.1% during the same period.

<sup>22/</sup> The information regarding businesses located in Whitesboro was compiled based on U.S. Census data using zip-code batching and city name.

<sup>23/</sup> KMAD-FM is currently serving only 16,235 persons in this contour service area. If those persons were substituted, Sullins' proposal would result in a net gain of 54,957 persons, over the Pottsboro proposal rather than 71,192.



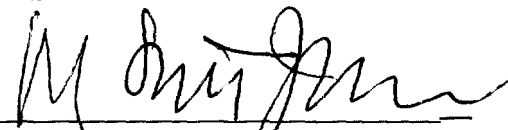
### III. CONCLUSION


The attributes of Whitesboro set forth above demonstrate that Whitesboro is a dynamic community with thriving social, business, and governmental activities. Accordingly, Whitesboro should be preferred over Pottsboro.

For the reasons set forth above, the public interest would be served by the foregoing proposal and, accordingly, the Commission is respectfully requested to make the following changes to the FM Table of Allotments as follows:

	<b>Oklahoma</b>	
	<b>PRESENT</b>	<b>PROPOSED</b>
<b>Madill</b>	<b>272A</b>	<b>-----</b>
	<b>Texas</b>	
<b>Whitesboro</b>	<b>-----</b>	<b>273C2</b>
<b>Roxton</b>	<b>274A</b>	<b>255A</b>
	<b>Texas</b>	
<b>Soper</b>	<b>243A</b>	<b>274A</b>

Respectfully submitted,  
**Robert S. Sullins**

By:   
M. Scott Johnson, Esquire

By:   
Jocelyn R. Roy, Esquire

His Attorneys

Gardner, Carton & Douglas  
1301 K Street, N.W.  
Suite 900  
East Tower  
Washington, DC 20005  
(202) 408-7100

Date: June 29, 1998  
[230587.2]

**ENGINEERING STATEMENT****In Support of a  
COUNTERPROPOSAL****Pottsboro, Texas****MM Docket 98-63, RM-9209****Robert S. Sullins****GENERAL**

The instant engineering statement is submitted in support of a counterproposal filed by Robert S. Sullins ("Sullins"), Individually, licensee of KMAD(FM) Madill, Oklahoma. The counterproposal is mutually exclusive ("MX") with the Grayson County Broadcasting ("Grayson") petition to substitute channel 296A, or channel 296C3, at Madill for use by KMAD, and allot channel 273C3 at Pottsboro, Texas, as a new service. The MX point is with the proposed allotment of Channel 273C3 at Pottsboro.

The Comment date for the Grayson NPRM is June 29, 1998, therefore the instant counterproposal is timely filed.

The counterproposal is mutually exclusive with the Grayson NPRM. Channel 272A was deleted at Madill in MM Docket 96-10 and channel 273A substituted.

Presently Sullins has an application pending (Form 301) for a one-step upgrade to channel 273C2. That application's request for an allotment site (of Channel 273C2 and technical parameters) is the site Sullins uses in his counterproposal. This site is dictated due to spacing restraints. Even after the spectrum modifications proposed in the Sullins counterproposal, the clear spaced channel 273C2 allotment window is quite small. Exhibit E, figure 1

is an enlargement of the allotment window and its dimensions. It considers only a change in the reference coordinates for channel 274A at Soper, Oklahoma.

The Commission issued a NPRM proposing the allotment of channel 274 at Roxton, Texas, after Sullins filed the one-step application. A counterproposal was filed in that NPRM which proposed channel 255A be allotted to Roxton in lieu of channel 274A. It also requested that channel 274A be added to Soper, Oklahoma. Through coordination with the petitioner for channel 274A at Soper, reference coordinates were submitted which gave the necessary spacing to the Sullins one-step application. However, when the Commission entered the reference coordinates for channel 274A at Soper, the site was changed to a point which caused short spacing to Sullins' one-step application. Sullins timely filed reply comments in the Roxton/Soper proceeding noting this unnecessary short spacing. In the reply Sullins offered reference coordinates which gave the necessary 70 dBu service to Soper and clearance to its allotment reference coordinates for channel 273C2. In the instant proceeding Sullins is offering a substitute channel at Soper.

#### **COUNTERPROPOSAL EXPLAINED**

Sullins proposes deleting channel 272A at Madill and substituting channel 273C2 at Whitesboro, Texas, as that community's first local service. Madill will continue to be served by KMAD-AM.

Channel 274A at Soper, Oklahoma, is proposed to be substituted. It is a proposed allotment only and no present service will be interrupted. However, a study is included that does not propose substitution of channel 274A at Soper. If for spacing reasons presently not known to Sullins, a substitute channel is not available at Soper, he request that the channel 274A reference coordinates be changed to those offered by him in the previously mentioned Reply Comments.

#### METHODS

The Sullins Counterproposal is supported with engineering exhibits to support the conclusions advanced. First an allocation study which uses the proposed channel 273C2 allotment reference coordinates is used to demonstrate the present and proposed spacing to all FM facilities of concern. An allotment map is included to depict the 70 dBu contour relationship to the community. A gain/loss map depicts the existing KMD 60 dBu service area and population gain/loss. Finally, a remaining services map is included to depict that the deletion of channel 272A at Madill, and the substitution of channel 273C3 at Whitesboro will not create any white or grey areas. The study demonstrates in excess of five remaining services.

#### EXHIBITS

The reference coordinates for the allotment is the same as those in Sullins' one-step upgrade allotment site (pending Form 301). Exhibit E, Figure 2 is an allocation

study depicting that if Channel 243A is substituted for Channel 274A at Soper, the requested Sullins allotment of Channel 273C2 at Whitesboro has no short spacing other than the MX at Potttsboro. Exhibit E, Figure 3 is a computer generated map from the professional mapping program, MAPINFO, which depicts the allotment reference coordinates and the 70 dBu Whitesboro community boundary relationship. This exhibit demonstrates that the 70 dBu contour more than adequately provides the required service to 100 percent of Whitesboro since the site is only 21.66 kilometers from Whitesboro and a class C2 has a 32.6 kilometer 70 dBu.

Exhibit E, figure 4 is an enlarged map depicting the clear spaced allotment area window. It assumes the substitution of channel 243A for channel 274A at Soper, Oklahoma, only. Basically it demonstrates that Sullins is limited in his site choice for allotment reference and that further movement toward Whitesboro is prohibited. However, with channel 274A substituted at Soper, and by applying under §73.215, an abundant choice of antenna sites are available within the limited area.

Exhibit E Figure 5 is a MAPINFO generated map depicting the gain and loss areas for the Sullins' proposal. This exhibit demonstrates that only a small area (37.00 square kilometers) on the north side of the present KMAD 60 dBu is to be considered as loss area. Therefore, if this deducted from the total gain area, the Sullins proposal provides for a gain area of 7,222.0 square kilometers. In addition, this

Exhibit is used to generate exact population comparisons for the gain/loss areas. The computations use the U.S. census bureau's 1999 population projection update, and extracts data from each individual census designated place. The method gives total accuracy. The population computations are also a function of MAPINFO. The study depicts a total number of persons in the gain area of 188,682. A total number of 159 persons are in the loss areas. Therefore, by deducting the number of persons in the loss area, there is a total gain of 188,523 persons in the Sullins proposal. Exhibit E, figure 5 is a MAPINFO generated map depicting the Grayson 60 dBu contour for Channel 273C3 at Pottsboro. This study depicts a gain area of 4,803 square kilometers and a 60 dBu service to 133,565 persons. This proposal would provide a gain of 3,470.0 square kilometers and a net gain of 117,000 persons if it were compared only to the present KMAD license facility. However, the gain in the Pottsboro proposal must be compared to the gain proposed in the Sullins' counterproposal.

In a conservative approach to gain comparisons of the Grayson PRM and the Sullins' counterproposal, Exhibit E, figure 6 is a MAPINFO generated map which depicts the present licensed 60 dBu service of KMAD and the hypothetical 60 dBu of Grayson and Sullins. The map depicts that the Sullins' counterproposal provides for more service area than present KMAD facilities and the Grayson PRM. Population studies for the three service areas were conducted. The

study depicts that presently KMAD.L offers a 60 dBu service to 1,333 square kilometers and 16,235 persons. The Grayson PRM with a class C3 at Pottsboro would provide service to 4,259 square kilometers and 133,565 persons. Finally, the Sullins counterproposal with a class C2 at Whitesboro would provide 60 dBu service to 7,259 square kilometers and 188,682 persons.

There is an area of 589.00 square kilometers and 8,933 persons where the proposed 60 dBu of KMAD and Grayson overlap. In addition, there is an area of 37 kilometers and 159 persons presently in the KMAD 60 dBu which will not receive service from the Sullins counterproposal. The following tabulations were developed with these parameters.

<u>SERVICE</u>	<u>SQUARE KM</u>	<u>POPULATION</u>	<u>GAIN/&lt;LOSS&gt;</u>
KMAD.L	1,333.0	16,235	37 sq km <159> persons
Grayson	4,803.0	133,565	4,803.0 sq km & 133,565 persons
Total	6,136.0	149,800	6,136 sq km & 149,800 persons
Less 60 dBu Overlap	<589>	<8,933>	<589 sq km & 8,933> persons
Total of KMAD.L & Grayson			5,547 sq km & 140,867 persons
<u>Sullins</u>	7,259.0	188,682	1,712 sq km & 47,815 persons\1



Using the methodology described in the footnote below, the Sullins' study is clearly superior to the Grayson proposal by 1,712.0 square kilometers and 47,812.0 persons receiving a new 60 dBu service.

Exhibit E, figure 1 notes that a channel substitution at Soper is proposed. Exhibit E, figure 7 is an allocations study for the substitution of channel 243A for channel 274A at Soper. It depicts that if a site restriction of 6.34 kilometers is used, channel 243A can be used at Soper without any short spacing. Exhibit E, figure 8 in a MAPINFO generated map depicting the reference coordinates and 70 dBu relationship to the Soper community boundaries.

Since the proposed substitution at Soper is for a proposed allotment, there is no existing service that will be interrupted. Therefore, no gain/loss area, population comparisons or remaining services is included for this substitution.

---

\1 The net gain was determined by adding the square kilometers and number of persons served by KMAD.L & The Grayson PRM plus the loss area (and persons) of the present KMAD 60 dBu contour when compared to the Sullins Counterproposal. The area served by both KMAD.L and Grayson was computed and deducted in order to avoid adding that area twice. After the total of this computation was completed, the final number was subtracted from the Sullins Counterproposal. The net gain of Sullins over Grayson is shown in the last column.